

**FINAL STATEMENT OF REASONS**  
**Alternative Management Standards for Treated Wood Waste**  
**Department of Toxic Substances Control Reference Number: R-2005-04**  
**Office of Administrative Law Regulatory Action Number: 07-0504-01S**

**UPDATE OF INITIAL STATEMENT OF REASONS**

As authorized by Government Code section 11346.9, subdivision (d), the Department of Toxic Substances Control (DTSC) incorporates by reference the Initial Statement of Reasons prepared for this rulemaking.

Complete discussion of amendment to the Initial Statement of Reasons follows below in the section titled "Amendments to the Initial Detailed Statement of Reasons."

**EFFORT TO AVOID DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS**

The proposed regulations do not duplicate or conflict with federal regulations for Management of non-RCRA treated wood waste because the U.S. Environmental Protection Agency (U.S. EPA) does not identify the wastes addressed by these regulations as hazardous wastes. Thus, there are no corresponding federal regulations.

**STUDIES RELIED ON**

DTSC has found this rulemaking presents no potential for a significant impact on the environment under the California Environmental Quality Act (Public Resources Code section 21000 et seq.). An initial study and negative declaration is available for review in the rulemaking file and a Notice of Determination will be filed with the State Clearinghouse when the regulations are adopted.

**LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.

**BUSINESS REPORT DETERMINATION**

DTSC finds that reporting treated wood waste received is necessary for the health, safety, or welfare of the people of California. Proposed section 67386.8 would require certain solid waste facilities that accept treated wood waste to submit semi-annual reports of treated wood waste accepted at the facility to DTSC. It is a discretionary decision for a solid waste facility to decide if they will accept treated wood waste. If a solid waste facility chooses to accept this waste, in lieu of a hazardous waste facility

permit, a semi-annual report pursuant to section 67386.8 is required. The additional business resulting from volume of this additional waste stream should offset the cost of reporting. Information needed is specified and the facility is directed to report electronically, a simpler and more efficient medium for reporting. Furthermore, this reporting requirement will provide data needed to complete the report Health and Safety Code section 25150.7(k) requires DTSC to prepare, by June 2011, regarding the successful compliance and implementation of this regulation.

DTSC finds that requiring ID numbers and notification from the largest treated wood waste generators is necessary for the health, safety, or welfare of the people of California. Proposed section 67386.9 would require the largest generators of treated wood waste to obtain an identification number and to notify DTSC that their generation of treated wood waste has exceeded 10,000 lbs in the calendar year. DTSC will use the EPA Identification Numbers and generator notifications to track large TWW shipments that represent the greatest risk to human health and the environment.

## **ALTERNATIVES DETERMINATION**

DTSC has determined that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.

## **ALTERNATIVES CONSIDERED**

Alternatives available for consideration were severely limited by the prescriptive directives provided in the statutory language. Health and Safety Code section 25150.7(g)(2) directed DTSC to incorporate a list of specific controls. The alternatives considered were:

- 1) The use of hazardous waste manifests. This option was discussed was discussed during public workshops. DTSC received many comments stating that a hazardous waste manifest was unnecessary and burdensome for treated wood waste transportation and tracking. DTSC revised the language and removed this requirement; and
- 2) Do nothing option. This option would be the most burdensome alternative. This would result in treated wood waste becoming subject to full hazardous waste management standards and an unmet statutory mandate for DTSC.
- 3) Designating TWW as a universal waste. However, under universal waste regulations, management standards specific to TWW would need to be developed and merged into existing universal waste regulations. The proposed regulations establish alternative standards for TWW similar to universal waste standards but in a stand-alone format that provide maximum flexibility in addressing the unique characteristics of TWW.

DTSC held two public workshops to present the regulation concepts under consideration. The workshops were held serially with the second considering a proposal

modified by the comments received at the first workshop. After the second workshop, the proposal was again modified and distributed for further public review and comment. A broad range of interested parties, including local agencies, environmental advocates and industry representatives, participated in the discussions. Comments received during and after the workshops were used to develop draft regulatory language.

A 45-day public comment period was noticed closing on January 8, 2007. A public hearing was also held on January 8, 2007. Based on comment received, proposed regulatory language was amended incorporating minor formatting edits and sufficiently related changes, as defined by California Code of Regulations, title 1, section 42. The amended language was then noticed for a 15-day public comment period closing on March 16, 2007.

## **AMENDMENTS TO THE INITIAL DETAILED STATEMENT OF REASONS**

### **Section 67386.4. Definitions.**

This section defines terms used in the regulations so that the entities defined can be clearly identified and the duties and obligations of all parties managing the treated wood waste are clearly understood. Generally, the definitions used throughout the hazardous waste control law apply; this section adds specific definitions for this chapter of the regulations.

The section was amended by expanding the definition of "TWW facility" to include both "Small Volume Construction and Demolition/Inert Debris Processing Operation" and "Limited Volume Transfer Operation." As a result, definitions of "Small Volume Construction and Demolition/Inert Debris Processing Operation" and "Limited Volume Transfer Operation" were added to the section and the definition of "TWW facility" was amended so as to add both operations to the list of solid waste facilities/operations eligible to qualify as a "TWW facility." This addition was in response to comments received and consultation with California Integrated Waste Management Board which indicated that these changes would facilitate collection of TWW in rural counties.

The two operations are identified in Public Resources Code and are defined similarly in the amended proposed regulatory language as:

**"Limited Volume Transfer Operation"** means an operation that receives less than 60 cubic yards, or 15 tons of solid waste per operating day for the purpose of storing the waste prior to transferring the waste to another solid waste operation or facility and which does not conduct processing activities, but may conduct limited salvaging activities and volume reduction by the operator and is authorized to operate pursuant to division 30 of Public Resources Code (commencing with § 40000).

**"Small Volume Construction and Demolition/Inert (CDI) Debris Processing Operation"** means a site that receives less than 25 tons of any combination of construction and demolition debris and Type A inert debris per operating day for the

purposes of storage, handling, transfer, or processing that is authorized to operate pursuant to division 30 of Public Resources Code (commencing with § 40000).

DTSC understands that TWW facility could be perceived to describe facilities engage in activities associated with the acceptance and shipment of TWW. To ensure clarity that disposal activities could also occur at TWW facility, DTSC included TWW approved landfills in the definition for TWW facility. Note that land disposal of TWW is only allowed at TWW approved landfills. That is land disposal cannot occur at all TWW facilities only those that meet the definition of TWW approved landfills.

**Amend subsection 67386.6(e)**

Contained within section 67386.6 “Accumulation,” this subsection which established the training requirements for employees handling treated wood waste was deleted. Training requirements for employees have been moved to section 67386.12 “Training.”

**Amend subsection 67386.6(f)**

This subsection is unchanged but is now identified as subsection 67386.6(e).

**Amend subsection 67386.6(g)**

This subsection is unchanged but is now identified as subsection 67386.6(f).

**Amend subsection 67386.10(d)**

Contained within section 67386.10 “Treatment,” this subsection required that any business resizing, sorting, or segregating treated wood waste provide training for all employees handling or potentially exposed to the treated wood waste. This subsection further required that the business maintain a record of the training for a minimum of three years and be able to present the record for review. This subsection also introduced a list of items that must be included in the treated wood waste training. This subsection restated a statutory requirement.

In response to comments regarding possible confusion with the various statutory and regulatory definitions of “business,” “A business,” as used in this subsection, was replaced with “An employer.” No other changes were made.

**Add section 67386.12. Training**

This new section was added but is, with a single exception, the exact language deleted from subsection 67386.6(e) which established the training requirements for employees handling treated wood waste. The single exception is, as in subsection 67386.10(d), that the term “A business,” was replaced with “An employer.” Again, this change was made to eliminate possible confusion with the various statutory and regulatory definitions of “business.”

## **SUMMARY OF COMMENTS AND AGENCY RESPONSES**

Eight individuals, organizations, and/or agencies expressed either oral testimony or written comments during a 45-day public comment period. In response to these comments, DTSC clarified and made changes to the proposed regulation language and renoticed the proposal in a 15-day public comment period. A single comment was received during the 15-day comment period.

DTSC's responses to comments on the 45-day notice and the 15-day notice are included as attachments.